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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,341

06/02/2006

Jean-Pierre Klein

0598-1010

6229

466

7590

12/08/2010

YOUNG & THOMPSON

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EXAMINER

KENNY, DANIEL J

ART UNIT

PAPER NUMBER

3633

NOTIFICATION DATE

DELIVERY MODE

12/08/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,341	<b>Applicant(s)</b> KLEIN, JEAN-PIERRE	
	<b>Examiner</b> DANIEL KENNY	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A partition is claimed in claim 9, yet it is unclear how the device of claim 1 fits into the partition. For example, is claim 9 drawn to a kit or to an assembled structure?

The claim will be examined as best understood.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

**Claims rejected under 35 U.S.C. 102(b) as being anticipated by Karytinov (4,918,899).**

Claim 1 – Karytinov discloses a device capable of earthquake resistant mounting of a partition between a floor and a ceiling, said partition having a framework comprised of a lower rail and an upper rail that are substantially horizontal and configured to

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connect to substantially vertical uprights for connecting the upper and lower rails, the framework configured to fixably connect with a covering (6), the device comprising:

a slide (11) of profiled section, having arms (15) forming a substantially U-shaped section and capable of being joined to an upper rail;

a top runner (20) comprised of a rail with two side flanges (15') extending parallel to and within the arms of the U-shaped section of the slide such that the slide and the top runner are movable relative to each other in a vertical direction, the top runner capable of being fixed to the ceiling; and

reversible snap-fitting means (21) between the slide and the top runner, the snap-fitting means comprised of first and second matching bosses, the first boss projecting inward respective of the flanges of the top runner, and the second boss projecting inward respective of the arms of the slide,

wherein the slide and top runner are each mounted to move relative to each other in a vertical direction, and

wherein the first boss is configured, in a resting position, to locate in the second boss.

The language in the preamble is considered intended use, and as such it is given only minimal patentable weight, the device of Karytinios being capable of the intended use.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

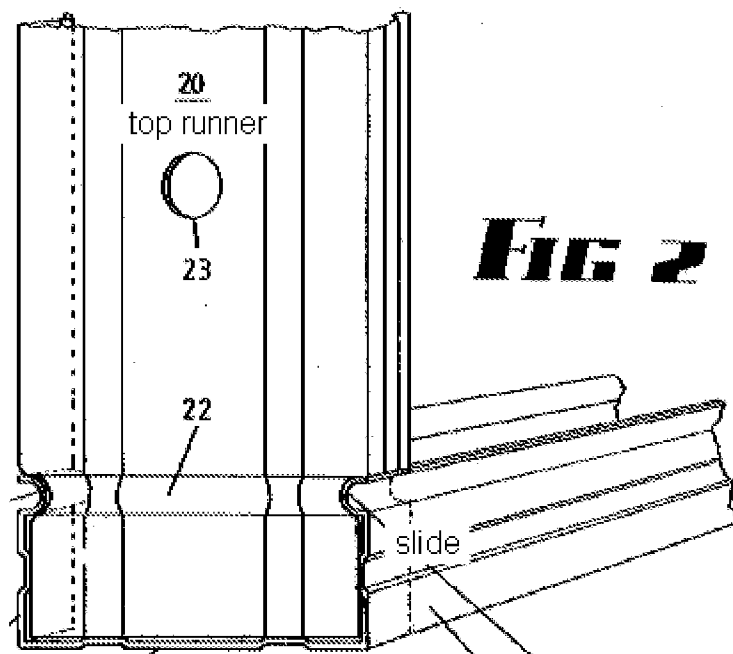
112 2<sup>nd</sup> rejection of claim 9

The amendment to the claim does not address the rejection, as dependent claim 9 drawn to a partition depends from claim 1 drawn to a earthquake-resistant mounting device.

102(b) rejection of claim 1

Regarding the argument that no “the Official Action does not expressly identify the elements of KARYTINOS alleged to anticipate a lower and upper rail”, Karyintos only need be capable of performing then intended use; the rails being part of the partition framework, which is not claimed.

Regarding the floor plates 11 anticipating the slide, the following annotated figure may help further describe the rejection:



Applicant argues that “there is no suggestion in KARYTINOS of floor plate 11 as teaching a slide” because the claim recites:

the slide movable relative to a top runner in a vertical direction;  
the top runner fixed; and,  
the snap-fitting means is reversible.

The slide is movable relative to a top runner in a vertical direction, as the “top runner” essentially snaps in and out of the “slide”. The top runner is claimed as being capable of being fixed to the ceiling, and the “top runner” of Karytinios is so capable, as it can be secured at the top end to a ceiling. The snap-fitting is reversible, at least to the extent that essentially any connection is reversible to some degree.

### ***Allowable Subject Matter***

Claims 4-8 and 14-20 – are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL KENNY whose telephone number is (571)272-9951. The examiner can normally be reached on Mon-Fri. 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. K./  
Examiner, Art Unit 3633

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633